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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,612	03/08/2004	Frank Inchingolo	07470-072001	1763
26161	7590	04/18/2007	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			WAI, ERIC CHARLES	
			ART UNIT	PAPER NUMBER
			2195	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	04/18/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/796,612	INCHINGOLO ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Eric C. Wai	2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 August 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/07/07 and 4/11/05</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-25 are presented for examination.

#### ***Information Disclosure Statement***

2. The information disclosure statement filed 04/11/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

#### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-24 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

6. Claims 1-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. No physical transformation is recited and additionally, the final result of the claim is linking the task elements to the resource elements which is not a tangible result because no execution of the tasks is performed. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

<[http://www.uspto.gov/web/offices/pac/dapp/ola/preognitice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/ola/preognitice/guidelines101_20051026.pdf)>

7. Claims 8-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a signal directly or indirectly by claiming a medium and the Specification recites evidence where the computer readable medium is defined as a “propagated signal” (such as a carrier wave). In that event, the claims are directed to a form of energy, which at present the office feels does not fall into a category of invention. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

<[http://www.uspto.gov/web/offices/pac/dapp/ola/preognitice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/ola/preognitice/guidelines101_20051026.pdf)>

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8. Claims 13 and 19 recite a "system"; however, it appears that the system would reasonably be interpreted by one of ordinary skill in the art as software, per se, failing to be tangibly embodied or include any recited hardware as part of the system.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

10. Claims 1-3, 5-14, 16-20, and 22-25 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant's Admitted Prior Art (AAPA).

11. Regarding claim 1, AAPA teaches a method for control of task execution in a computer system including:

accepting a specification of a graphical representation of task dependency having a plurality of task elements each associated with a different task ([02] lines 5-7 and [03] lines 2-3),

a resource element having a plurality of attachment locations ([03] lines 3-4, wherein the tasks access a common data structure [i.e. resource]), and linking elements coupling the task elements to the resource element at the plurality of attachment locations, wherein couplings of task elements to attachment

locations on the resource element specify an execution ordering constraint on the tasks associated with the task elements ([03] lines 6-12, wherein each link indicates the order of execution).

12. Regarding claims 2, AAPA teaches executing the tasks according to the graphical representation of task dependency ([03] lines 6-12, wherein it is inherent that the tasks will executed according to the representation).
13. Regarding claim 3, AAPA teaches that the task elements comprise nodes in the graphical representation, and the linking elements comprise links in the graphical representation ([03] lines 2-3).
14. Regarding claim 5, AAPA teaches that the resource element is associated with a computation resource for access by the tasks ([03] line 4, wherein the data structure is accessed by all tasks).
15. Regarding claim 6, AAPA teaches wherein the computation resource includes a storage resource ([03] line 4, wherein the data structure is a storage resource).
16. Regarding claim 7, AAPA teaches wherein the computation resource includes a data table ([03] line 4).

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17. Regarding claims 8-14, 16-20, 22-25, they are the computer readable medium, system, and method claims of claims 1-3, 5-7 above. Therefore, they are rejected for the same reasons as claims 1-3, and 5-7 above.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 4, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Waddington et al. (US Pat No. 5,872,981 hereinafter Waddington).

20. Waddington was disclosed on IDS dated 03/07/2007.

21. Regarding claim 4, AAPA does not teach that the resource element comprises a timeline with the attachment locations being associated with points on the timeline.

22. Waddington teaches using a timeline to illustrate worker locks on a database (Fig 4, col 7 lines 1-20). It would be obvious to one of ordinary skill in the art at the time of the invention to include using a resource timeline as part of the dependency graph. One

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would be motivated by the desire to easily indicate the scheduling of tasks that depend on a single resource.

23. Regarding claims 15 and 21, they are the system claims of claim 4 above.

Therefore, they are rejected for the same reasons as claim 4 above.

### ***Conclusion***

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric C. Wai whose telephone number is 571-270-1012.

The examiner can normally be reached on Mon-Thurs, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng - Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EW



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